

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
JARDEEN BROTHERS, INC.,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 139

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This is an appeal of a \$50.00 civil penalty assessed for an alleged violation of Section 9.02 of Regulation I of the Puget Sound Air Pollution Control Agency pursuant to RCW 70.94 by respondent.

The matter came before the Pollution Control Hearings Board at 10:00 a.m., September 15, 1972 at 818 South Yakima Avenue, Tacoma, Washington. James T. Sheehy acted as the hearing officer in behalf of the Board. Appellant was represented by Harold Jardeen, job superintendent for Jardeen Brothers, Inc. Respondent was represented by its attorney, Keith D. McGoffin, Esq. of the firm of Burkey, Marsico, Rovai and

1 McGoffin of Tacoma, Washington. Transcript of the proceeding was
2 prepared by Richard Reinertsen, an Olympia court reporter.

3 Witnesses were sworn and testified.

4 On the basis of testimony heard, the Pollution Control Hearings
5 Board prepared Proposed Findings of Fact, Conclusions and Order which
6 were submitted to the appellant and respondent on November 13, 1972.
7 No objections or exceptions to the Proposed Findings, Conclusions and Order
8 having been received, the Pollution Control Hearings Board makes and enters
9 the following:

10 FINDINGS OF FACT

11 I.

12 The appellant was the prime contractor on a school building under
3 construction at Southeast 240th Street and 180th Avenue Southeast in
14 Kent, Washington on March 31, 1972 when a fire was observed on the site.

15 II.

16 A fire of some extent was observed by an air pollution inspector
17 of respondent at the above-mentioned site at 5:30 p.m., March 31, 1972.
18 The fire contained scrap lumber, plastic pipe, paint cans and other
19 waste materials normally associated with a construction project.

20 III.

21 Upon the request of the air pollution inspector, two pieces of
22 firefighting apparatus from the King County Fire Protection District
23 No. 37 in Kent, Washington were dispatched to the scene and extinguished
24 the fire.

25 IV.

26 The contractor did not have a valid fire permit and at the time of

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 the fire no burning was permitted in this fire district, F.P.D. No. 37.

2 V.

3 Appellant was served with a notice of violation and a civil penalty
4 of \$50.00 was imposed.

5 From these Findings, the Pollution Control Hearings Board comes to
6 these

7 CONCLUSIONS

8 I.

9 Appellant, as prime contractor, was responsible for the actions of
10 its employees and those of its subcontractors.

11 II.

12 The waste material in the pile must have originated from the
13 activities of the subcontractors as well as those of the prime
14 contractor.

15 III.

16 The appellant was in violation of Section 9.02 of respondent's
17 Regulation I.

18 IV.

19 The civil penalty, one-fifth of the allowable maximum penalty of
20 \$250.00, was reasonable for an unauthorized burning.

21 Based on these Findings and Conclusions, the Pollution Control
22 Hearings Board makes the following:

23 ORDER

24 The civil penalty of \$50.00 imposed by the respondent is sustained.

25

26

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 DONE at Olympia, Washington this 2nd day of January, 1973.

2 POLLUTION CONTROL HEARINGS BOARD

3 Walt Woodward
4 WALT WOODWARD, Chairman

5 James T. Sheehy
6 JAMES T. SHEEHY, Member

7 Matthew W. Hill
8 MATTHEW W. HILL, Member

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26 FINDINGS OF FACT,
27 CONCLUSIONS AND ORDER